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November 11, 2020

VIA CM/ECF

Honorable Joseph A. Dickson, U.S.M.J.
United States District Court
Martin Luther King Building & U.S. Courthouse
50 Walnut Street Room 4015
Newark, NJ 07101

Re: WITOLD BAGINSKI v. WALLINGTON
Civ. Action No.: 2:17-cv-05320-JLL-JAD

Dear Judge Dickson:

This office serves as co-counsel to the defendant, the Borough of Wallington (the "Borough"), in the above-referenced matter.

On November 9, 2020 Plaintiff filed his reply papers (ECF No. 66) with respect to his Motion for Sanctions (ECF No. 64). Plaintiff's submission includes a Declaration by Mr. Baginski.

Mr. Baginski's Declaration is the first document from Plaintiff in this motion cycle that purports to place facts before the Court in a manner consistent with L.Civ.R. 7.2(a).

Addressing a similar situation in a summary judgment setting under Fed.R.Civ.P. 56, the Third Circuit noted that when new facts are presented in reply, the "movant must provide the nonmoving party with notice and a reasonable opportunity to respond." Alston v. Forsyth, 379 F. App'x 126, 129 (3d Cir. 2010).

While Plaintiff has not moved for summary judgment in this instance, his motion seeks dispositive relief suppressing Defendants' Answers and Separate Defenses with prejudice along with other weighty demands including disqualification of counsel.

As a result, we respectfully request that Defendants be afforded an opportunity to respond to Plaintiff's factual allegations through sur-reply.

Thank you.

Respectfully submitted,

s/ Leonard E. Seaman
LEONARD E. SEAMAN

LES:me

Cc: All Counsel (via CM/ECF)
Client (via email)